

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-219114.2 **DATE:** November 4, 1985

MATTER OF: NJCT Corporation--Request for
Reconsideration

DIGEST:

Dismissal of original protest for failure to file written comments on the agency report within 7 working days of the due date for delivery of the report to GAO and to the protester is affirmed. Notwithstanding the protester's assertion that it received the report late, the protester failed in its duty to notify GAO that it had not received the report by the due date.

NJCT Corporation requests reconsideration of our dismissal of its protest, B-219114, under solicitation No. 663-41-85, issued April 24, 1985 by the Veterans Administration (VA). The agency awarded a contract for waste receptacles and surface-mounted paper towel dispensers for the VA Medical Center in Seattle, Washington, to Fox Industrial Sales Co., the low aggregate bidder. NJCT contended that the VA would have saved money by making awards, including one to NJCT, on an individual line item basis.

We dismissed the protest on August 6, 1985 because NJCT failed to file its comments on the contracting agency's report within 7 working days after we received the report, as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1985).

We affirm the prior dismissal.

NJCT's original protest was filed on June 11, 1985. Our standard acknowledgment notice, dated June 12, 1985, advised the protester that the contracting agency's report was due in our Office on July 18 and that we would assume that the protester received a copy of the report by that date. The protester was advised to notify our Office promptly if it did not receive a copy of the report by July 18 and, additionally, that it was required to file

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comments or request a decision on the existing record within 7 working days of receipt of the report. The notice specifically warned the protester that unless we heard from it by the 7th working day, we would close our file on the protest. Although we received the VA's report on the due date, we did not hear from the protester within the time prescribed. Accordingly, we notified NJCT that its protest had been dismissed.

In its request to reopen our file and consider the merits of the protest, NJCT contends that it did not receive the VA's report until October 15, 1985, and we therefore should consider its comments, which we received on October 22, 1985.

The fact that we received NJCT's comments within 7 days of when the protester actually received the report does not warrant reversal of the dismissal, since NJCT was required either to file its comments or to advise us that it had not received the report within 7 working days from July 18, 1985, the due date for delivery of the agency report both to our Office and to the protester. AFL-CIO Appalachian Council Inc.--Reconsideration, B-218090.2, May 10, 1985, 64 Comp. Gen. _____, 85-1 CPD ¶ 528. Because we received no notice from the protester that it had not received a copy of the agency report when due, we affirm our dismissal of the original protest.

for Seymour E. Evers
Harry R. Van Cleve
General Counsel